IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER No. 846 OF 2006

WITH

CIVIL APPLICATION NO. 1168 OF 2006

IN

APPEAL FROM ORDER NNO. 846 OF 2006

Smt.Indumati H. Borse .. Appellant

versus

Shri Anil Kumar Zunjurwad & Anr. .. Respondents

...

Ms.Chandana Salgaokaar Rupia for the appellant.

Mr. A.G. Shintre for the respondents.

CORAM : D.G. KARNIK, J

DATED : 13th December 2006

P.C.:

1. Heard counsel for the appellant and respondents on caveat. Arguable case is made out. Hence appeal is admitted.

2. As regards the interim relief, the trial court has granted two prayers. Firstly, it has appointed a Court Commissioner for site inspection and secondly, it has appointed Court Receiver to take possession of the suit property. As regards the appointment of the Court Commissioner, I see no reason to grant any stay for this part as no harm whatsoever would be caused to the appellant by inspection of the property.

3. As regards the appointment of the Court Receiver, in paragraph no.7 of the impugned order, the trial Judge itself has stated that plaintiff cannot be treated to be in exclusive possession of the suit property and therefore, the defendant cannot be restrained by an order of injunction. In the circumstances, it would be appropriate at this stage to stay the appointment of the order of appointment of a Court Receiver. Hence the order appointing the Court Receiver and consequential directions to the Court Receiver are stayed till the disposal of the appeal. Civil Application is disposed of.

(D.G. KARNIK, J)